

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

TERRY LEE TETTERTON,

Petitioner,

v.

WARDEN, FCI FORT DIX,

Respondent.

Civil Action
No. 23-1394 (CPO)

OPINION & ORDER

O’HEARN, District Judge.

In his § 2241 Petition, Petitioner argues that the Bureau of Prisons (“BOP”) revoked his home confinement under the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”), Pub. L. No. 116-136, 134 Stat. 281 (2020), without a hearing on the issue. (ECF No. 1, at 2.) Now before the Court is Petitioner’s motion for a temporary restraining order and for a preliminary injunction. (ECF No. 6.) Petitioner seeks an order from the Court to direct the BOP to “return [him] to home confinement, pending a final ruling on his Petition.” (*Id.* at 5.) Petitioner believes that the BOP will lose its authority to place him under CARES Act home confinement on May 10, 2023. (*Id.* at 2.)

Assuming *arguendo* that Petitioner otherwise meets the requirements for a TRO or preliminary injunction, this Court must dismiss his motion for lack of jurisdiction. Petitioner seeks a direct order for home confinement, but this Court “has no authority to issue such an order.” *United States v. Farlow*, No. 18-44, 2021 WL 1207485, at *4 (D.N.J. Mar. 30, 2021); *see also e.g.*, *Davey v. Warden Lamine N’Diaye*, No. 22-2254, 2023 WL 2570221, at *7 (D.N.J. Mar. 20, 2023); *Perri v. Warden of FCI Fort Dix*, No. 20-13711, 2023 WL 314312, at *3 (D.N.J. Jan. 19, 2023); *Hussain v. Thompson*, No. 21-1635, 2021 WL 5298898, at *3–4 (M.D. Pa. Nov. 15, 2021), *aff’d sub nom. Hussain v. Warden Allenwood FCI*, No. 22-1604, 2023 WL 2643619 (3d Cir. Mar. 27,

2023). Petitioner’s request for home confinement falls under 18 U.S.C. § 3624(c)(2), as amended by § 12003(b)(2) of the CARES Act. *Farlow*, No. 18-44, 2021 WL 1207485, at *4.

“The CARES Act does not empower a district court to transfer an inmate to home confinement; rather, that decision rests solely within the discretion of the BOP.” *Id.* (citing *United States v. Moore*, No. 19-101, 2020 WL 4282747, at *8 (D.N.J. July 27, 2020)); *Hussain*, 2021 WL 5298898, at *3–4 (citing cases); *see also* 18 U.S.C. § 3621(b) (stating that “a designation of a place of imprisonment under this subsection is not reviewable by any court”); *United States v. Aguibi*, 858 F. App’x 485, 486 n.2 (3d Cir. 2021) (citing *Tapia v. United States*, 564 U.S. 319, 331 (2011)) (finding that the BOP has the sole authority to place a prisoner on home confinement) *Washington v. Warden Canaan USP*, 858 F. App’x 35, 36 (3d Cir. 2021) (“[W]hether to transfer an inmate to home confinement is a decision within the exclusive discretion of the BOP.”).

In other words, prisoners cannot use “§ 2241 as an end-run around the compassionate release statute (18 U.S.C. § 3582(c)(1)(A)) and the federal CARES Act, which vests in the Director of the Bureau of Prisons discretion to transfer an inmate to home confinement.” *Olson v. Warden Schuylkill FCI*, No. 21-2436, 2022 WL 260060, at *2 (3d Cir. Jan. 27, 2022). Consequently, this Court lacks jurisdiction to issue an order for home confinement “under 18 U.S.C. § 3624(c)(2) or its amendments under the CARES Act.” *Farlow*, 2021 WL 1207485, at *4; *see also Davey*, 2023 WL 2570221, at *7 (finding that this Court “lacks jurisdiction to issue an order for home confinement under . . . the CARES Act”); *Rodriguez-Francisco v. United States*, No. 21-1180, 2023 WL 2089256, at *1 (M.D. Pa. Feb. 17, 2023) (same); *Perri*, 2023 WL 314312, at *3 (same). As a result, this Court lacks jurisdiction to grant Petitioner’s request for a temporary order to return him to home confinement under the CARES Act. Accordingly,

IT IS, on this 10th day of May 2023,

ORDERED that Petitioner's motion for a temporary restraining order and for a preliminary injunction, (ECF No. 6), is **DISMISSED WITH PREJUDICE** for lack of jurisdiction; and it is further

ORDERED that the Clerk of the Court shall serve a copy of this Opinion and Order upon Petitioner by regular U.S. mail.

/s/ Christine P. O'Hearn
Christine P. O'Hearn
United States District Judge